

IN THE SUPREME COURT
FOR THE
STATE OF SOUTH DAKOTA

STATE OF SOUTH DAKOTA,
Plaintiff and Appellee,

Case #

SUPREME COURT
STATE OF SOUTH DAKOTA
FILED

JUL 13 2026

vs.

Shirley A. Johnson Legal
Clerk

GARY DEAN LAFRENTZ,
Defendant and Appellant.

Appeal from the Circuit Court, Second Judicial Circuit,
Minnehaha County, South Dakota.

The Honorable Ann M. Hoffman, Judge presiding.

APPELLANT'S BRIEF

PARTIES:

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Appellee:

Gary Dean Lafrentz
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Appellant:

The Notice of Appeal was filed on May 22, 2026.

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STATE OF SOUTH DAKOTA,
Appellee,

vs.

GARY DEAN LAFRENTZ,
Appellant.

JURISDICTIONAL STATEMENT:

Jurisdiction of this Court is invoked pursuant to SDCL § 15-26A, and the South Dakota Constitution Art. V § 5. The Circuit Court had jurisdiction to entertain Appellant's Writ of Coram Nobis, and it is now this Courts ability to correct the lower Courts errors. Therefore this Court has jurisdcition in this matter as stated above and inaccordance with other State Laws and Constitutional obligations.

LEGAL ISSUES:

1. The fraudulent acts by the Court when it failed to establish a lawful factual basis based off facts not a fictional story.

2. The fraudulent acts by the State in using false evidents to coerce a guilty plea from an innocent man.

3. The fraudulent actions by the State and allowed by the Court to breach the Plea Agreement, by allowing new charges to be filed against him after the indictment was handed down.

4. The fact that because of the above stated fact, the Court in fact lost jurisdiction when it allowed a superceeded information to filed, after he accepted the States Plea deal.

5. The Court failed to protect theDefendant from the actions of the state which in fact raised to the level of Prosecutorial misconduct.

6. The fraudulent actions when the Court and the State along with his attorney applied the ambiguity of the law to confuse them and the Defendant, when he was led to believe the maximum sentence was 10 years and in fact he got 60 years instead of what he bargained for. Therefore the Rule of lenity must be applied as the facts stated herein are all found in the records of the Courts.

In summary the Court along with the State and his Attorney allowed the system to prevent the truth from coming forward and then they mislead him about the 10 year max. sentence. It was unclear to all 3 legal experts as to the meaning of the Law, which was never settled pursuant to the Courts records.

STATEMENT OF THE CASE AND FACTS
AND LEGAL ARGUMENT:

CASE HISTORY:

Defendant declares that an Indictment was filed with the Court in Minnehaha County, by the Grand Jury, on July 24, 2008 charging him with the crimes of: Ct. I, Rape 1st degree, on or between Jan. 1n 2008 and July 9, 2008: Ct. II Rape 1st degree- Victim less than 13 yo on or between July 9, 2007 and Dec. 31st 2007: Ct. III Rape 1st degree- Victim less than 13 yo, on or between the day of July 1, 2006 and the 31st day of Dec., 2006: Ct. IV Sexual Contact W/Child under 16- Actor more than 3 years older than the Victim on or between Jan. 1, 2008 and the 9th day of July, 2008: Ct. V Sexual Contact W/Child under 16 -Actor more than 3 years older than the Victim on or between Jan. 1, 2007 and Dec. 31, 2007: Ct. VI Sexual contact W/Child under 16- Actor more than 3 years older than the Victim on/or between July 1, 2006 and the 31st day of Dec. 2006. Ct. VII Possession of two ounces or less Marijuana on or about the 9th day of July, 2008.

The Defendant was arraigned on the Indictment on August 5, 2008. Defendant appeared at the arraignment with his counsel Cheri Scharffenberg and entered a plea of Not Guilty to all charges. On the 5th day of November the defendant after considerable consideration, and with the understanding that the Max. sentence was 10 years pursuant to the Court, the State and his trial Counsel. This is very evident in the Courts own records. Therefore he accepted the plea deal offered him by the State, with the understanding that the max sentence would be no more than 10 years, before that the State was talking a life sentence, which they used to coerce this plea of guilty to the following charges Count IV, V, and VI, the same day the State filed an Information charging the Defendant with another Ct. of Sexual Contact W/Child under 16 and Actor 3 yo. There was not formal process for this charge. On Jan. 14, 2009 this Court sentenced him to 60 years in Prison. The Defendant then appealed this Conviction to the S.D. Supreme Court and they affirmed the low Courts Conviction. After time to study the records the Defendant discovered the errors and filed a Writ of Coram Nobis which the Circuit Court denied and therefore we are here in this action with this Appeal in an effort to remedy the Fraudulent acts.

STATEMENT OF FACTS AND ARGUMENT:

The trial Court erred when it failed to properly determine a lawful and legal factual basis in which to accept the Defendant's guilty plea. This raised to an error that would set aside a void Judgment, especially when the fraudulent facts are present as stated in the Defendant's Affidavit of Truth. The violations are clearly established by the Court in the following Cases: First off lets review the legal definition for "Factual Basis: based on or concerned with facts; real; true, actual, authentic, faithful, bonafide, accurate; objective, unbiased, unprejudiced. (None of these definitions hold true in the Defendant's case). They are using baseless accusations, with no evidence to back it up, and the rest the State made up as she went along. I never agreed to their so-called factual basis, but my Attorney did. See Plea Transcripts Pg. 18, lines 7,8,9,. She should not have agreed to it. See: State v. Nachtilgall, 2007, S.D. 109, [HN11] A guilty plea is an admission; however a guilty plea can not be accepted without proper factual basis. [HN7] In cases where defendant proclaim their innocents, while at the same time pleading guilty the factual basis must be "STRONG". Also See: State v. Apple, 2008 S.D. 120: [HN 16] Establishing a Factual basis for each element of a offense is essential to a knowing and voluntary plea; [HN17] It is essential that a colloquy between a judge and the defendant be meaningful. Simple affirmation or negative answers or responses which merely mimic the indictment or the plea agreement cannot fully elucidate the Defendant's state of mind. For this reason a trial court should question a defendant in a manner that requires the accused to provide a narrative response. Questions concerning the setting of the crime, the precise nature of the Defendant's actions, or the motive of the defendant, for instance to force the Defendant to provide the factual basis in his own words. The Court should not be satisfied with coach responses, nor allow a defendant to be unresponsive. The Court may not rely on uncertain answers to incomplete question. The Defendant said 3 word at his pleas hearing, "Yes -no-guilty". Also See: Lofton v, U.S. 92 F.3d 572 (8th Cir.) [HN7] An unlawful or illegal sentence is one imposed, without, or in excess of statutory authority.

Also See: Spirit v. State, 272 N.W.2d 803 (SD 1978) [HN2] Fed. R. Crim. Proc. 11. The requirements of which were adopted in substance by the Supreme Court of South Dakota, include the requirement that a factual basis be established for the acceptance of a plea of guilty. In directing the judge to inquire into the defendant's understanding of the nature of the charge and any consequences of his plea. Rule 11 also requires the judge to satisfy himself that there is a factual basis for the plea. The Judge must determine that the conduct which the defendant admits constitutes the offense charged in indictment or information. See: McCarthy v. U.S., 394 U.S. 459 (7th Cir. 1969) [HN6] When the district Court does not comply fully with F.R.Crim.P 11 the Defendant's guilty plea must be set aside and his case remanded for another hearing at which he may plead anew. Also See: U.S. v Booker, 543 U.S. 22- (7th Cir. 2005) [HN6] The requirement of the Sixth Amendment are clear. It is a defendant's right to have the jury find the existence of "any particular fact" that the law makes essential to his punishment, That right is implicated wherever a judge seeks to impose a sentence that is not solely based on facts reflected in the jury verdict or admitted by the defendant.

2. The trial Court erred when it allowed the fraudulent evidence into the record, In fact there are no evidence of any substance introduced by the State in the entire proceedings. It is for the lack of any lawful evidence that was used to induce a false guilty plea from the Defendant. Therefore in actuality the Court and the State sent an innocent man to Prison for a crime that didnot happen. The Courts have been very clear on what type of evidence is allowed to be used in a criminal prosecution. In the Defendant's case the facts never come close to the truth. See: Jenner v. Dooley, 590 N.W.2d 463 (SD 1999) [HN19] Punishment of the innocent may be the worst of all injustices. To avoid a grievous outcome, Courts should solemnly consider reopening a case if a "truly persuasive" showing of actual innocence lies close at hand: Also See: State v. Plaastow, 2015 SD 100 [HN1] The corpus delict; rule is generally applied in one of two situations: (1) challenges to the admissibility of an admission, or (2) challenges to the sufficiency of the evidence.

Also See: State v. Bunker, 2001 SD 116 [HN7] To prove the charge of sexual contact with children the State of South Dakota must establish beyond a reasonable doubt that the Defendant committed a touching, not amounting to rape, of the breasts or genitalia or anus of a child with the intent to arouse or gratify the sexual desire of either party. (SDCL § 22-22-7.1) Also See: Heib v. Lehrkamp, 2005 S.D. 98, Conclusion [P.39] says in part; Three children lied about a crime that never happened for a while, they managed to deceive everyone. They fooled law enforcement, officers, doctors, nurses, prosecutors, grand jurors, and even their parents. They convinced professionals from multiple disciplines that they had been kidnapped and that two of them had been raped...As a result, two innocent men were falsely charged. I asked my attorney to give my accuser a polygraph test, she said NO. [P.53] says in part: The three juveniles stories were inconsistent. (so were my accuser's stories) [P.82] says in part: Specifically one doctor noted that sexual contact was probable; the other doctor believed it was "fairly likely". (Unlike my case, there was no evidence what-so-ever). Then we can look at F. Lee Baily, Henry B. Rothblott-Burden of Proof: (401) #5: To warrant a conviction the defendant must be proven to be guilty so clearly and conclusively, that there is no reasonable theory upon which he can be innocent when all evidence in the case is considered together, if the prosecution failed to produce such proof you must find the defendant not guilty. In the eyes of the law insufficient evidence is no evidence what so ever. Then look no further than Geo. L.J. 2013 (Searches) *283 See: Fla. v. Wells 495 U.S.:4 (1990) ("An inventory search must not be a ruse for a general rummaging in order to discover incriminating evidence"). *284 Police may not conduct a inventory search in bad faith or solely for investigative purposes. (That is exactly what they did in my case, look at the evidence sheet.).

3. The trial Court erred when it allowed the fraudulent actions pertained within the Plea offer and then changed it as I was entertaining a plea of guilty as per the agreement. This was a direct violation of the agreement and a breach of said plea. Yet

the Court nor my attorney step up and object to such a fraudulent act. This was how they tricked me into accepting such a plea. It was stated in the record exactly how I understood the deal. One can not be blind sided like the State did to me and have such a plea stand. This Court must correct such error and allow the Defendant to be sentenced in accordance with what everyone had understood the Plea offer to be. This type of a breach of plea has been overwhelmingly objected by the Courts and therefore the sentence can not stand as it is. See: State v. Morrison, 2008 S.D. 116 (Overview): says in part; The Defendant alleged that the State breached the terms of his plea agreement. Considering the transcripts, it was not clear that the State fulfilled its obligations in good faith. Defendant was under no obligation to admit to any particular set of facts during the presentence investigation. Defendant was required to plead guilty, which he did. The State impliedly argued for a tougher sentence by voicing its discomfort with a suspended imposition. The State breached the plea agreement when it did not fulfill its end of the bargain in good faith. Because the State breached the plea agreement, defendant was not afforded a fair and reliable sentencing proceeding. (Outcome): Defendant's sentence was vacated and the case was remanded for resentencing by a different judge. [HN-2] says in part: Once a defendant has given up his bargaining chip by pleading guilty, due process requires that the defendant's expectations be fulfilled. (I fully expected to get 10 years). Also See: State v. Hale, 2018 S.D. 9, (Overview): [2] At a change of plea hearing where the defendant pleaded guilty to aggravated assault, the Circuit Court implicitly accepted the binding plea agreement based on its colloquy with the defendant because it induced him to waive his fundamental rights and stated that it intended to sentence him as provided in the agreement under SDCL § 23A-7-8.3 (Outcome: Reversed and remanded). In my case the Court said I see what your saying, and the Judge also says, thats what his plea is entered under and I found it voluntary, that he can only get 10 years. [HN4]: The duty of the State to perform its part of a plea agreement applies with equal force to the trial Court. Once the Defendant has given up his bargaining chip by pleading guilty, due process requires that the

defendant's expectations be fulfilled. (again in my case I expected to get 10 years). Also See: State v. Olvera, 2012 S.D. 84 [HN5]: A breach of a plea agreement established (1) error, and (2) that is was plain). Finding a breach also implicates the defendant's substantial rights. Once an accused agrees to plead guilty in reliance upon the prosecutor's promise to perform a future act, the accused due process right demands fulfillment of the bargain. [HN6]: Under the third prong of plain error analysis, and appellant must establish prejudice. (I was prejudiced by a 60 year sentence instead of the 10 year sentence I was told I would get.) The Statutes make it clear in SDCL § 23A-27-11 (Rule 32(d)): A Motion to withdraw a plea of guilty or nolo contendere may be made only before sentence is imposed or imposition of sentence is suspended: but to correct manifest injustice a court after sentence may set aside a judgment of conviction and permit the defendant to withdraw his plea. Also See: Marby v. Johnson, 467 U.S. 504 (8th Cir. 1984) [HN7]: says in part: Defendant pleads guilty on a false promise, and hence his conviction cannot stand. See: SDCL § 23A-27-11: If a court rejects the plea agreement, it shall on the record, inform the parties of this fact, advise the defendant personally, in open court, or, on a showing of good cause in chambers, that the court is not bound by the plea agreement, afford the defendant the opportunity to then withdraw his plea, if a plea has been entered, and advise him that if he persists in his guilty plea or plea of nolo contendere the disposition of the case may be less favorable to him than that contemplated by the plea agreement. (The Court never said they would reject my plea, They implicitly accepted my plea. She said I see what your saying, the plea was entered under that, and I found it voluntary, that he can only get 10 years. If they would have told me she was rejecting my plea or sentence or told me she was not bound by it, I would have withdrawn my plea. Also See: State v. Reaves, 2008 S.D. 105 [HN3]: Once having accepted the agreement the trial court was bound to honor its promise to perform it. (Overview): says in part; The Supreme Court noted that the circuit court never informed defendant whether or not it was going to reject the agreement, and thereby provide defendant the opportunity to withdraw his plea. Also See: U.S. v. Coney, 390 F. Supp.2d 844 [HN1] says in part: Fed. R. Crim. P 11(c)(1)(c) allows

the parties and their lawyers to bind the judge at sentencing by agreeing that a specific sentence or sentencing range is the appropriate disposition of the case. Also See: State v. McCall, 2011 S.D. 90 [HN2] When a Defendant moves to withdraw his guilty plea after sentence has been imposed, the trial judge will set aside the Judgment of Conviction and permit the Defendant to withdraw his plea only to correct manifest injustice. See: SDCL § 23A-27-11, Manifest injustice occurs when a plea is entered on a plea agreement that is not fulfilled because the plea is not considered voluntary. The prosecutor first said the plea agreement was three sexual contact charge. Then she said it was four sexual contact charges, after I accepted the plea agreement. Then she agreed I can only get 10 mandatory 10 years sentence. Then she said I was looking at 60 years. Then she said I could get at least 10 years. Then she said according to the plea agreement my sentence was to run consecutive 4 15 year sentences. Also See: U.S. v. Selvy, 619 F.3d 945 (8th Cir. 2010), [HN1] If a defendant can make a strong showing that a guilty plea was entered in reliance on false assurances of the sentence to be imposed the plea can be set aside as involuntary. Also See: U.S. v. Lara, 690 F.3d 1079 (8th Cir. 2012), [HN1] When a defendant's sentencing claim was not properly preserved for appeal, it is reviewed for plain error; [HN8]: Under plain error review, a defendant's substantial rights are affected when the government breaches a plea agreement causing his prison sentence to be longer than it should have been under the plea agreement. That error seriously affects the fairness, integrity or public reputation of judicial proceedings. Also See: U.S. v. Great Walker, 285 F.3d 727 (8th Cir. 2002) [HN3]: There can be no plea bargain to an illegal sentence. Also See: U.S. v. Hanshaw, 686 F.3d 613 (8th Cir. 2012) [HN2]: Permitting the government to breach a promise that induced a guilty plea violates due process; [HN5]: A Court must construe any ambiguity in a plea agreement against the government and in the defendant's favor. When a plea agreement is ambiguous the ambiguities are construed against the government. Also See: D.S.D. Crim. L.R. 11.1; A. Plea Agreement. If a defendant is pleading guilty pursuant to a plea agreement with the government, a written plea agreement and a factual basis statement must be filed. A plea agreement supplement must also be filed and must identify any agreement that the defendant has with the

government regarding cooperation or state the defendant has no cooperation agreements with the government. The plea agreement supplement will be sealed in all cases. The defendant, defendant's attorney and government attorney must sign the plea agreement factual basis statement and the supplement. I do not recall signing any of that. I know I never seen a written plea agreement. When I requested all of the court documents for my case, there was no written plea agreement or factual basis statement. Also See: State v. Pentecost, 2016 S.D. 84 [HN9].

4. The Trial Court erred when it lost jurisdiction on the Indictment, when it accepted a superseded information, and then it lost jurisdiction because the defendant did not sign a indictment waiver. The fraudulent part on the State also was the fact that the Information was based off false information. Once a Court loses jurisdiction, all action thereafter are void. A court must have jurisdiction on the matter before it. In this case they did not obtain or retain that jurisdiction. Therefore the Judgment issued in this case must be set aside as void, due to fraud and lack of jurisdiction. See: State v. Eagle, 2013 S.D. 60 [*P38] says in part ..[HN12] Jurisdictional issues can be raised at any time and determination of jurisdiction is appropriate. [HN13] Further subject-matter jurisdiction cannot be acquired by agreement, consent, waiver or estoppel. [*P41] says in part..[HN18] When considering how the amended information/Indictment, affects the original information/Indictment, several courts have held that the filing of an amended information/indictment essentially acts as a dismissal of the original information/indictment. Also See: Honomichl v. State, 333 N.W.2d 79 (SD 1983) [HN1]: A Court must have personal and subject matter jurisdiction before it may act on a criminal charge. [HN4]: Without a formal and sufficient indictment or information, a court does not acquire subject matter jurisdiction and thus an accused may not be punished for a crime. Also See: U.S. v. Machado, 2005 U.S. Dist. Lexis 26255 [HN3] The Court has no subject matter jurisdiction over a prosecution in which the government has filed an information without obtaining a waiver of indictment. [HN9] A Waiver of indictment is required before a guilty plea or trial on an information. Also See: Bayles v. Weber, 2004 S.D. 31 [HN2] Constitutional violations will deprive the trial court of jurisd-

ictiont. Also See: Miller v. Weber, 1996 S.D. 47 [HN6]: The appropriate inquiry under SDCL § 15-6-60(b)(4) is limited to jurisdiction and due process issues only and the court is not empowered to relitigate the correctness of the decision. If the court lacks jurisdiction over a defendant's person or order entered against such defendant its void. A Motion to set aside a void judgment under SDCL §15-6-60(b)(4) is not subject to the reasonable time requirement. Also See: Kromer v. Sullivan, 88 S.D. 567 (1975) [HN1]: If a judgment is void on jurisdictional grounds it must be set aside. [HN2] A Void Judgement cannot be rendered against a party without due and legal service of process upon him. [HN5]: There is no time limit on attacking a void judgment. [HN6] says in part: A Judgment or decree, which a court has no jurisdiction to pronounce, is void, and the judgment is not due process of law and It may be attacked at any time it is sought to be enforced, or in any suit. Also See: State v. Rus, 2021 S.D. 14 [HN6]: Under SDCL § 23A-6-3, all informations shall be filed with the Court having jurisdiction of the offense by the prosecuting attorney, prior to arraignment. They did the opposite in my case, on the fraudulent/false 2nd information. They said I was arraigned on 7/10/2008, See Count 1 on the 2nd single complaint. If you look at the 1st Complaint, Count 1 is a Rape charge. But in the Plea Transcripts the State says she has an additional county to the indictment. This is an error that caused the void judgment. Also See: State v. Snodgrass, 2020 S.D. 66 [HN2]: The purpose of an indictment or information is to apprise a defendant of the nature of the charges against him with sufficient specificity so that he may defend against the charges, and may later plead the indictment or information as a bar to a subsequent charge. Accordingly, one of the five statutory requirements for a indictment or information is that the offenses charged is designated in such a manner as to enable a person of common understanding to know what is entered SDCL §23A-6-7(5). I can assure the Court that didnt happen in my case. Also See: State v. Schrempp, 2016 S.D. 79, [HN3]: A trial Court has no inherent authority to amend an indictment in any material respect, but may amend an indictment as to matters of form. Also See: State v. McMillen 2019 S.D. 40 [HN2] The double jeopardy prohibition in the U.S..

Const. Amend W and S.D. Const. Art. VI § 9. protects against three types of governmental abuse: (1) a second prosecution for the same offense after acquittal, (2) A second prosecution for the same offense after conviction, and (3) Multiple punishments for the same offense. After I accepted the State's Pleas Agreement, to drop the rape charges in exchange for pleading to 3 counts of sexual contact they added another sexual contact with an information. That would be double jeopardy. Also See: State v. McAlear, 519 N.W.2d 596 (SD 1994) [HN2]: In the case of a plea bargain, jeopardy attaches when a Court accepts the guilty plea. Also See: U.S. v Bailey, 34 F.3d 683 (8th Cir. 1994) [HN4]: says in part: The Double Jeopardy clause of the 5th Amendment to the United States Constitution bars a second prosecution for the same offense, or a lesser included offense. Also See: U.S. v. Timley, 433 F.3d 615 (8th Cir. 2006) [HN7]: A superseding indictment and a superseding information are of the same nature; they both charge the defendant with a felony offense. The only difference is that the prosecution may file an information instead of an indictment where the defendant agrees to waive formal indictment. Fed. R. Crim. P. 7(b).

5. The Trial Court erred when it allowed the State to inflict the Prosecutorial misconduct upon the Defendant. The main act was when the State came in after the indictment and filed an Information charging him with another count of sexual contact. This is spelled out in my Affidavit as well as within the Court Records, clearly show how it prejudiced the Defendant. It was also done in conflict with SDCL, and other Rules of Criminal procedure. Therefore it is for this and other unlawful and unconstitutional acts that the State did commit Prosecutorial misconduct and therefore the Judgment must be set aside with prejudice. This is clearly spelled out in the following Case: See: Hunt v. Houston, 2008 U.S. Dist. Lexis 24110 (Dist. of Neb.) 2. Analysis a. Fifth Amendment: Prosecutorial Misconduct Par. 7, line 1; It is not unreasonable to assume that a prosecutor who would falsify one piece of evidence would also falsify another. Also See: State v. Hayes 2014 S.D. 72: Prosecutorial Misconduct implies a dishonest act of an attempt to persuade the jury by using deception or by reprehensible methods. An Appellate Court will find that prosecutorial Misconduct

has occurred if (1) There has been misconduct, and (2) the misconduct prejudiced the party as to deny the party a fair trial. If both prongs for prosecutorial misconduct are satisfied, the Appellant Court will reverse the conviction. Also See: Johnson v. U.S. 2011 U.S. Dist. Lexis 26794 (8th Cir.) [HN5]: The fraud contemplated by Fed. R. Civ. P. 60(d)(3) is a wrong against the institutions set up to protect and safeguard the public, institutions in which fraud cannot complacently be tolerated with the good order of society. That narrow concept embraces only the species of fraud which does or attempts to, defile the court itself, or is a fraud perpetrated by officers of the court so that the judicial machinery cannot perform in the usual manner its impartial task of adjudicating cases that are presented to adjudication. This exactly what the State did in my Case. She intentionally used fraudulent information and fraudulent documents to cause the Defendant to serve a prison sentence he was not guilty of. Also See: Jones v. Slay, 62 F.Supp. 3e 806 (8th Cir.): [HN21]: The Eighth Circuit has recognized that a plaintiff can establish a substantive due process violation by offering evidence of the manufacture of false evidence, There can be little doubt that intentionally manufacturing false evidence to convict a criminal defendant is the sort of brutal and inhumane abuse of official power that shocks the conscience. [HN22]: The right to be free from a conviction purposefully obtained by false evidence and false testimony has long been established. Also See: SDCL § 23A-6-10 (Endorsement of witnesses on information) The prosecuting attorney shall endorse upon each information the names of the witnesses known to him at the time of its filing. The State perjured herself under Oath, by knowingly filing the false and fraudulent Information, with the witness as the Notary Public only, that should be a crime in itself. Furthermore in SDCL § 16-16-18 in part: I will employ for the purpose of maintaining the cause confided to me such means only are consistent with truth and honor, and will never seek to mislead the judge or jury by any artifice or false statement of facts of law. I guess the State forgot that part of her Oath. Also See: 42 Geo. L.J. Ann. Rev. They also said I was arraigned in July on that 2nd Information but it wasn't even filed until November.

Crim. Proc. 2013: A guilty plea may be set aside as involuntary if the Defendant can establish prejudice resulting from Prosecutorial misconduct. Also See: again" Fed. R. Civ. P. 60(d)(3): Rule 60 Relief from a Judgment of Order: (d) other powers to grant relief. This rule does not limit a courts power to: (3) set aside a judgment for fraud on the court. These type of actions by the State, at the Court and his trial attorney raise to the level of errors that are cognizable under a Writ of Error, See: Garcia v State, 2014 S.D. 5, 843 N.W.2d 345 [HN2]: Coram Nobis is not merely another avenue of appeal; it is limited to reviewing a criminal conviction respecting some error in fact or fundamental jurisdictional error, as opposed to an ordinary error in law, that without the fault if the petitioner was unknown at the time of the questioned proceedings or unrevealed because of fraud or coercion, without which the judgment would not have been entered, and for which there is no other available remedy. These facts as contained above fit my case to a [T] because of the false and fraudulent charges filed in the information and the coercion to take their plea bargain of 10 years and then they gave the Defendant 60 year sentence. Not to mention there was no physical evidence present in the entire case to support such a plea of guilty, there was NO FACTUAL BASIS.

WHEREFORE, the Defendant, Gary Dean Lafrentz, herein declares that this Honorable Court shall review this Writ and the Attached Affidavit of Truth, and then so order the State to respond to the affidavit of Truth, if they fail to do so the Affidavit will then stand as the Truth in this matter, which will be the first time since the truth has been accepted as factual. The Affidavit must be rebutted point to point. In the case that the State is not able to do so this Court will have no other option than to set aside the void judgment, due to Fraudulent acts by the State and in part by the Court. A void Judgment can not stand and a fraudulent means of obtaining such a judgment shall not be allowed to stand in our justice system. One last point of Judicial Notice is that the Courts have held that a Writ of Coram Nobis is the appropriate remedy for a Jurisdictional issue as so stated herein.

CONCLUSION:

Wherefore, the Appellant, Gary Dean Lafrantz, prays that this honorable Court will grant the Writ of Coram Nobis pursuant to the SD. Const. or in the alternative remand the case back to the Circuit Court with instructions to recognize the Fraud that was imputed upon him in the original case or in the alternative provide Appellant any other relief this Court deems appropriate at this time.

Respectfully Submitted this 29 day of June, 2026.

By: [Signature]
Gary D. Lafrantz 99199
Mike Duffee State Prison
1412 Wood St.
Springfield, SD
57062

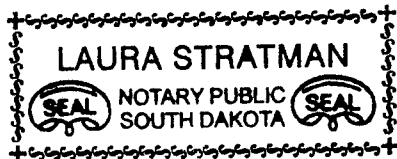
ACKNOWLEDGEMENT

SUBSCRIBED AND SWORN, to before me now this 29th day of June, 2026.

[Signature]
Notary Public-SOUTH DAKOTA

My Commission Expires: My Commission Expires June 10, 2031

SEAL:



IN THE SUPREME COURT
STATE OF SOUTH DAKOTA

No. 31516

STATE OF SOUTH DAKOTA,

Respondent and Appellee,

v.

GARY DEAN LAFRENTZ,

Petitioner and Appellant.

APPEAL FROM THE CIRCUIT COURT
SECOND JUDICIAL CIRCUIT
MINNEHAHA, SOUTH DAKOTA

THE HONORABLE ANN M. HOFFMAN
CIRCUIT COURT JUDGE

APPELLEE'S BRIEF

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DEFENDANT AND APPELLANT

Notice of Appeal filed May 22, 2026

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IN THE SUPREME COURT
STATE OF SOUTH DAKOTA

No. 31516

STATE OF SOUTH DAKOTA,

Respondent and Appellee,

v.

GARY DEAN LAFRENTZ,

Petitioner and Appellant.

PRELIMINARY STATEMENT

In this brief, Appellant, Gary Dean LaFrentz is referred to as “LaFrentz” or “Defendant.” Appellee, State of South Dakota, is referred to as “State.” References to documents will be designated as follows:

Settled Record (Minnehaha County File No. 49CIV26-001910)....SR

LaFrentz Brief (pro-se).....LB

Circuit Court record 08-3817, Plea Hearing.....PLH

All document designations will be followed by the appropriate page number(s).

JURISDICTIONAL STATEMENT

LaFrentz appeals from an Order Denying Writ Of Error Coram Nobis, by the Honorable Ann Hoffman, Circuit Court Judge, Second Judicial Circuit, filed on April 21, 2026. SR:25. LaFrentz filed his Notice of Appeal on May 22, 2026. SR:28. This Court has jurisdiction under SDCL 15-26A-3.

STATEMENT OF LEGAL ISSUE AND AUTHORITIES

WHETHER THE CIRCUIT COURT PROPERLY DENIED LAFRENTZ'S WRIT OF CORAM NOBIS (aka WRIT OF ERROR)?

The circuit court denied LaFrentz's petition for writ of error of coram nobis because his claims failed to meet the strict requirements of a writ of coram nobis.

Garcia v. State, 2014 S.D. 5, 843 N.W.2d 345

Gregory v. Class, 1998 S.D. 106, 584 N.W.2d 873

STATEMENT OF THE CASE AND FACTS

On July 24, 2008, an Indictment was filed in Minnehaha County charging LaFrentz with three counts of First Degree Rape; three counts of Sexual Contact with a Child under 16; and one count of Possession of Two Ounces or Less of Marijuana. SR:23, (*see also*: Minnehaha County File No. 49C08003817A0).

A plea agreement was reached and on November 5, 2008, a change of plea hearing was held. LaFrentz pleaded guilty to the three counts of Sexual Contact with a Child under 16 in the Indictment, along with an additional count of Sexual Contact with a Child under 16, that was brought via Information. SR:23. The plea was accepted by the Honorable Patricia Riepel. *Id.* The remaining three counts of First Degree Rape and one count of Possession of Two Ounces or Less of Marijuana were dismissed per the plea agreement. *Id.*

LaFrentz was sentenced on January 14, 2009. On each count of Sexual Contact with a Child under 16, he was sentenced to fifteen years

in the South Dakota State Penitentiary. *Id.* Each count was ordered to be served consecutively to each other, resulting in a “total of 60 years.” *Id.*

LaFrentz then filed a direct appeal to the South Dakota Supreme Court. This Court summarily affirmed LaFrentz’s judgement and sentence on November 23, 2009. *Id.* LaFrentz did not file an application for writ of habeas corpus within the statute of limitation set in SDCL 21-27-3.3. SR:23

Approximately sixteen years and four months later, on April 14, 2026, LaFrentz filed his pro-se “Writ of Coram Nobis (aka Writ of Error).” SR:1-13. In his appellant brief to this Court, LaFrentz alleges the following general issues:

1. “[F]raudulent acts” by the trial court “when it failed to establish a lawful factual basis based off facts” and “not a fictional story.”
2. “[F]raudulent acts” by the State “using false evidents (sic) to coerce a guilty plea...”
3. “[F]raudulent acts by the State...to breach the Plea Agreement, by allowing new charges to be filed against him after the indictment....”
4. The trial court “lost jurisdiction when it allowed a superseded information to filed after he accepted the States plea deal.”
5. The trial court “failed to protect the Defendant from...prosecutorial misconduct.”
6. Fraudulent acts by the trial “court and the state along with [Defendant’s] attorney” confused Defendant “to believe the

maximum sentence was 10 years and...he got 60 years....the rule of lenity must be applied....”

LB:1.

LaFrentz’s claimed factual support for his Writ from his pro-se created “Petitioner’s Affidavit of Truth and Facts” which he filed on April 14, 2026. SR:14-22. The circuit court summarized LaFrentz’s claims as “arguing actual innocence, lack of factual basis for his plea, violation of the plea agreement, and prosecutorial misconduct.” SR:24.

On April 21, 2026, the circuit court denied LaFrentz’s Writ of Coram Nobis claims and held that “[a] review of the plea and sentencing hearings transcripts does not support LaFrentz’s arguments.” SR:25. The circuit court specifically found that “LaFrentz was fully advised and voluntarily, knowingly, and intelligently gave up his rights when he pled guilty.” *Id.* The circuit court held LaFrentz’s “claims have been raised or could have been raised on direct appeal. . . . [a] writ of error coram nobis is not an appropriate remedy for LaFrentz’s claims.” *Id.* LaFrentz filed a Notice of Appeal on May 22, 2026. SR:28.

ARGUMENT

THE CIRCUIT COURT PROPERLY DISMISSED LAFRENTZ’S WRIT OF ERROR OF CORAM NOBIS (A.K.A. WRIT OF ERROR).

LaFrentz petitions this Court to require the State respond to his Affidavit of Truth “point to point.” LB: 13. He concludes seeking this Court to grant his Writ of Coran Nobis or remand it with “instructions to recognize the Fraud that was imputed. . . .” LB:14

LaFrentz suggests various claims and issues in his brief. This Court has held that issues not raised before the trial court are not reviewed at the appellate level. *Matter of Estate of Tank*, 2023 S.D. 59, ¶ 31, 998 N.W.2d 109, 120. The fact that LaFrentz is pro-se, does not provide him with any advantage. He must comply with rules of procedure and evidence like any other attorney. *State v. Heer*, 2024 S.D. 54, ¶ 32, 11 N.W.3d 905, 913.

As for his claims raised at the circuit court, they do not meet the extremely narrow requirements for a writ of coram nobis. Therefore, the circuit court properly dismissed his claims. SR:23-25. In *Garcia v. State*, 2014 S.D. 5, ¶ 6, 843 N.W.2d 345, 348 this Court stated, “[w]e have strictly limited the nature of the claims that are reviewable under coram nobis.” The Garcia Court also clarified that coram nobis is not “merely another avenue of appeal[.]”. *Id.* ¶ 6, 843 N.W.2d at 348 (quoting *In re Brockmueller*, 374 N.W.2d 135, 139 (S.D. 1985)). The writ neither allows the relitigating of previously addressed claims, nor serves as an alternative for a direct appeal or habeas corpus. *Gregory v. Class*, 1998 S.D. 106, ¶ 14, 584 N.W.2d 873, 877 (internal citations omitted). The writ of coram nobis,

is limited to reviewing a criminal conviction respecting some error in fact (or fundamental jurisdictional error), as opposed to an ordinary error in law, that without the fault of the petitioner was unknown at the time of the questioned proceedings, or unrevealed because of fraud or coercion, without which the judgment would not have been entered, and for which there is no other available remedy.

Garcia, 2014 S.D. 5, ¶ 6, 843 N.W.2d at 348.

A writ of coram nobis “has traditionally been used to present facts extrinsic to the record in circumstances where no other remedy was available.” *Gregory*, 1998 S.D. 106, ¶ 14, 584 N.W.2d at 877 (citing 3 W. LaFave & J. Israel, *Criminal Procedure* § 27.1(c), at 288 (1984)). Any proceeding which is challenged by the writ is “presumed to be correct and the burden rests on its assailant to show otherwise Relief will be granted only when circumstances compel such action ‘to achieve justice.’” *Id.* ¶ 17, 584 N.W.2d at 878 (internal citations omitted); *see also Edwards v. State*, 2001 S.D. 117, ¶ 9, 633 N.W.2d 623, 625.

In other words, coram nobis is an avenue for relief only when “necessary to right a profound injustice.” *Gregory*, ¶ 19, 584 N.W.2d at 879 (citing *Petition of Nilles*, 412 N.W.2d 116, 118 (S.D. 1987)). “Those seeking coram nobis relief must carefully study the procedural history of the case, ‘because past events exert a decisive control over which issues may or may not be raised . . . [and trial records] have to be examined in order to ascertain whether a claim is barred by res judicata or collateral estoppel.’” *Id.* ¶ 18, 584 N.W.2d at 878 (internal citations omitted). It is the petitioner’s burden to show the claims were not known to them and could not have been discovered at an earlier time. *Id.* ¶ 21, 584 N.W.2d at 879.

LaFrentz claims “fraudulent action when the [c]ourt and the State

along with [Defendant's] attorney applied the ambiguity of the law to confuse them and the Defendant. . .” LB:1. LaFrentz’s general accusation is confusing. He infers that a single ten-year sentence should have been his maximum exposure on four separate transaction convictions of sexual contact with a child. *Id.* He also infers statutory confusion and invokes “the [r]ule of lenity. . . .” *Id.*

This Court’s rule of statutory interpretation “is that the Legislature said what it meant and meant what it said from the text of the statute.” *Farm Bureau Life Ins. v. Dolly*, 2018 S.D. 28, ¶ 12, 910 N.W.2d 196, 201 (quoting *Benson v. State*, 2006 S.D. 8, ¶ 72 n.15, 710 N.W.2d 131, 159 n.15.) The “rule of lenity only applies if, after considering text, structure, history, and purpose, there remains a grievous ambiguity or uncertainty in the statute, such that the Court must simply guess as to what Congress intended.” *United States v. Castleman*, 572 U.S. 157, 172–73, 134 S. Ct. 1405, 1416, 188 L.Ed.2d 426 (2014); *see also Reck v. S. Dakota Bd. of Pardons & Paroles*, 2019 S.D. 42, ¶ 9, 932 N.W.2d 135, 139. If LaFrentz disagrees with the plain language of the statutes, his remedy is with the Legislature and not this Court.

LaFrentz’s also claims his writ of coram nobis should have been granted due to the “fraudulent” conduct of the trial court, the State, and his attorney, Cheri Scharffenberg. The court record does not support his claim. LB:1. At LaFrentz’s plea hearing, he was made aware that each count carried a maximum fifteen-year sentence.

THE COURT: So, this is a Class III felony; is that correct?

MS. MORAN: It is.

THE COURT: *Each of those counts* carry with them 15 years in the South Dakota penitentiary and a \$30,000 fine. Each of those counts individually carry that. Do you understand that, Mr. Lafrentz?

THE DEFENDANT: Yes.

PLH:5 (emphasis added).

The record also is clear that LaFrentz was not fraudulently led into a plea agreement. The trial court carefully questioned him prior to accepting a plea and found it “a voluntary plea, an intelligent plea.”

PLH:10.

THE COURT: What is your plea?

THE DEFENDANT: Guilty.

THE COURT: Do you understand if you plead guilty today you give up your right to jury trial in this state and in this county?

THE DEFENDANT: Yes.

THE COURT: You give up your right to see and hear and ask questions of the witnesses against you with the help of Ms. Scharffenberg?

THE DEFENDANT: Yes.

THE COURT: You also give up your right against self-incrimination.

THE DEFENDANT: Yes.

THE COURT: And knowing that do you still wish to plead guilty?

THE DEFENDANT: Yes.

THE COURT: Is anyone forcing you, threatening you, or making

you plead guilty today?

THE DEFENDANT: No.

THE COURT: The Court finds there *is* a voluntary plea, an intelligent plea.

PLH:10.

The court record does not support LaFrentz's claim that the factual basis was both "unlawful" and "fraudulent." LB:3.

THE COURT: ... All right. Let's go count by count with a factual basis, Ms. Moran.

MS. MORAN: Judge, in general, the factual basis that I'm giving would cover all of the counts because of the admissions that the defendant made, as well as what the victim disclosed. And for that factual basis, in July of 2008, the victim disclosed to her mother that the defendant had touched her inappropriately.

THE COURT: What is the relationship to the victim?

MS. MORAN: They are not related, your Honor. The Brandon Police Department was notified and began an investigation. The victim was taken to Child's Voice for examination. At that time Colleen Brazil spoke with the victim. The victim told Colleen that the defendant had been touching her sexually for the past three years.

She said the touching started when the defendant would baby-sit her. There were times when the victim would sit on defendant's lap and he rubbed her back, something she liked at the time. Then he was scratching her back. Soon it went to the defendant rubbing her vaginal area underneath clothing. She indicated this had happened to her many times.

The defendant, sometime later, then began touching her in other ways. He would have the victim come into his bedroom with him. She would be on top of the defendant and the defendant would pull down her pants or her shorts, whatever she was wearing at the time. He would also pull her underwear down. He then would take his pants and underwear down. They would both be naked then from the waist down, where he would touch -- the victim referred to it as his boy part to her girl part, meaning his

penis to her vaginal area.

The victim disclosed to Colleen Brazil that defendant's penis would maybe go in partway, not all the way, and this happened a few times. She said the last time that this happened was about two weeks prior to her coming to Child's Voice, and at that time the defendant was on the computer and the victim was sitting with him.

The defendant then started to rub the victim's back and then touched her on her chest area. The victim indicated that she didn't tell right away because she was afraid she might get into trouble or that it was her fault this had happened.

The Brandon Police then spoke to the defendant about the allegations that the victim had made. The defendant told the officer that he was almost relieved that he got caught because he'd been trying to explain to the victim's mother what he'd been doing to the victim for the last three years.

He explained that his contact with the victim had started out as massages, but it progressed into attempted intercourse over a three-year period. He indicated that initially he would rub the victim's back, then he would end up rubbing her breasts under her shirt and rubbing just above her vaginal area. He acknowledged he was sexually aroused when he did that.

He further admitted that things progressed to the point where he and the victim would be in bed lying together and he would have the victim touch him, and he would rub her vagina and breasts with his hand. He said this occurred at least 12 times in the past three years.

He stated further that he knew what was happening was illegal but that the incidents took place anyway because he was sexually excited by them. All of this happened in Minnehaha County. It occurred when the victim was between eight and 11 years old and the defendant was clearly over 16 at the time that this happened. He was born in 1956.

THE COURT: *Any objection to that as a factual basis in this matter, Mr. LaFrentz or Ms. Scharffenberg?*

MS. SCHARFFENBERG: No objection.

THE COURT: What is the plea agreement?

MS. SCHARFFENBERG: Plead to all four counts of the sexual contact and all of the rape charges are going to be dismissed, and all four counts are open.

PLH:15-18 (emphasis added).

LaFrentz's argues that he was "prejudiced" by being "fraudulently" exposed to a sixty-year sentence. LB:1, 6. Again, the record does not support his claim.

MS. MORAN: *But to be clear, he knows he's looking at 60 years in the South Dakota State Penitentiary.*

THE COURT: Well --

MS. SCHARFFENBERG: *That could be the maximum.*

THE COURT: Yeah, 15, 15 is 30 -- 60.

MS. SCHARFFENBERG: *Yes. That could be the maximum*

THE COURT: But I think it makes a difference -- that's what he's looking at is 60 years, but it makes it different in parole eligibility on maximum and minimums.

MS. SCHARFFENBERG: *Absolutely.*

PLH:22 (emphasis added).

LaFrentz accuses the State of being engaged in "prosecutorial misconduct" and his counsel participating in the fraud. LB:1,11. The claim has no support from the record. LaFrentz's accusation against his own counsel infers ineffective assistance of counsel. LB:1. LaFrentz must realize that "ineffective assistance claims are not usually cognizable in coram nobis proceedings." *Gregory*, 1998 S.D. 106, ¶ 25, 584 N.W.2d at 880, (citing *People v. Soriano*, 194 Cal.App.3d 1470, 240 Cal.Rptr.

328, 333 (1987)). Further, “[t]here is no federal constitutional right to counsel ‘when mounting collateral attacks upon their convictions.’” *Lee v. Weber*, 2023 S.D. 54, ¶ 11, 996 N.W.2d 905, 908 (quoting *Pennsylvania v. Finley*, 481 U.S. 551, 555, 107 S. Ct. 1990, 1993, 95 L.Ed.2d 539). Nor is there a constitutional right to effective assistance of habeas counsel in South Dakota. *Id.* ¶ 13, 996 N.W.2d at 908. Even if LaFrentz claim was appropriate here, he fails to show any evidence appropriate for the circuit court to grant a writ of coram nobis.

The circuit court held, LaFrentz ‘s alleged claims fail at a fundamental level because they are not based on errors in fact or fundamental jurisdictional errors. SR:24. The circuit court rightly held that all the facts claimed in LaFrentz’s Writ of Coram Nobis, were known to him at the time of his prosecution. In summary, LaFrentz’s alleged errors could have been reviewed by appeal or a writ of habeas corpus. Because they were not, coram nobis is not available. *Id.*

CONCLUSION

LaFrentz's claims fail to meet the strict requirements of a writ of coram nobis. He has not shown how the circuit court erred in dismissing his claims and therefore, the circuit court's decision should be affirmed.

Respectfully submitted,

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/s/ John M. Strohman

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CERTIFICATE OF COMPLIANCE

1. I certify that the Appellee's Brief is within the limitation provided for in SDCL 15-26A-66(b) using Bookman Old Style typeface in 12-point type. Appellee's Brief contains 2,803 words.

2. I certify that the word processing software used to prepare this brief is Microsoft Word 2016.

Dated this 12th day of August 2026.

/s/ John M. Strohman
John M. Strohman
Assistant Attorney General

CERTIFICATE OF SERVICE

The undersigned hereby certifies that on this August 12, 2026, a true and correct copy of Appellee's Brief in the matter of *State of South Dakota v. Gary Dean LaFrentz* was served by United States mail, first class postage prepaid, upon Gary Dean LaFrentz, #09199, Mike Durfee State Prison, 1412 Wood Street, Springfield, South Dakota 57062.

/s/ John M. Strohman
John M. Strohman
Assistant Attorney General

SEP 14 2026

IN THE SUPREME COURT
FOR THE
STATE OF SOUTH DAKOTA

No. 31516

STATE OF SOUTH DAKOTA,)
Respondent/Appellee,)
vs.) RESPONSE TO APPELLEE'S
) BRIEF
)
GARY DEAN LAFRENTZ,)
Petitioner/Appellant.)

COMES NOW, Gary Dean Lafrentz, hereinafter known as Petitioner Pro Se, moves in this Honorable Court his Response to Appellee's Brief. Petitioner claims that the following statements, made by the State, are nothing more than the continuation of the ongoing fraudulent acts by the State, and therefore Petitioner is herein clearing up the records with facts that can be found within the Courts own records as follows:

1. Petitioner states that the first issue is the Plea Agreement. Its clear from the records that everyone at the Plea Hearing all agreed that He can only be made to serve one ten (10) year mandatory minumum. Its true that he can be sentenced to sixty (60) years, but only one mandatory minumum can be imposed according to the Law. See page 15 thru 22 of Plea Hearing. His Attorney was ordered by the Court to contact the Prison to make sure they were all in agreement with that. The Court even went on to say if the Prison is not in agreement with that, then we will have to do something else, because that's what his plea is entered under and I found it to be voluntary. I guess the State failed to read pages 18 thru 21 of Plea hearing. This again shows the on going fraudulent action on behalf of the State.

2. Petitioner further states that the State claims the Court established a lawful factual basis, based on facts. Petitioner would like to see the facts that are proveable in a Court of Law, because the so called facts/Fraudulent statements, were based off everything the Petitioner said with the fraudulent twist by the State. I even said I would not agree to their lies, that they called factual basis. Therefore, his Attorney agreed because he wouldn't.

Furthermore the Court said it was going to ask me questions about the charges and you will have to answer them. (See Transcripts page 15, lines 3 and 4), but the Court never ask me anything about them. The Law says I am suppose to state in my own words what happened. That's the reason they did not establish a factual basis. There was no evidence to support such a factual basis, and his accuser was making up more stories that were all false. This is another one of the States fraudulent acts upon the Petitioner to cause him to plead to something that he did not do.

3. Furthermore, Petitioner was surprised that the State failed to address the fraudulent Prosecutorial Misconduct by the State concerning the filing of the false charge, by way of an Information after the Indictment and after the Petitioner accepted their plea deal. Then they go on to use a Notary as a witness against him. I know if I would made false and fraudulent charges against someone I would have been prosecuted and punished to the full set extent of the Law. In fact the Court would then not believe anything else I would have said. Therefore why would the Court believe anything that the State told the Court. In fact the State has already proven that they are willing to lie about a felony charge. This is nothing more than further fraudulent actions by the State.

4. Petitioner further, declares that the reason he didn't bring this forward sooner was he did not have all the proper paper work until recently. Once he had the paperwork and took the time to study it, he found all the erros that was inflicted upon him by the State and their fraudulent actions. I then went to my Case Manger about it and she told me to go the Parole Board, so that's were I started. I believe all the issues raised within the Writ are errors that are ripe for a Writ of Coram Nobis and the Court has jurisdiction over the lower Court. I fully believe that what happened to me was a huge miscarriage of Justice. In fact everything that I stated about my case is a matter that is clearly detailed within the Courts records (Court Documents). One of the primary questions in this case is why did my Attorney and the Courts allow this to happen.

Therefore in closing Petitioner would like the Court to fully consider the Courts records and apply the Law to the facts and the truth will clearly show the Court all the fraudulent

actions by the State.

WHEREFORE, Petitioner herëing again prays that this Honorable Court will review the lower Courts records and clearly see what Petitioner is claiming to be true. Then upon said review being completed Petitioner prays that this Court will grant his Writ of CoramM Nobis, or in the alternative remand it back to the lower Court with instructions to remedy said unlawful and illegal acts. Furthermore Petitioner would greatly appreciate any other relief this Courts deems appropriate at this time.

Respectfully submitted this 8 day of September, 2026

By: Gary D. Lafrentz
Gary Dean Lafrentz #9199
Mike Purfee State Prison
14122 Wood Street
Springfield, SD 57062

CERTIFICATE OF SERVICE

I Gary D. Lafrentz certify a true and correct copy of my, Response to Appellese's Brief was sent to, Marty J. Jackley, Attorney General, att: John M. Strohman, asst, 1302 E. Hwy, 1889, Ste. 1 Pierre, S.D. 57501-8501. This was sent via Prison Legal mail on the 8 day of September, 2026.

By: Gary D. Lafrentz
Gary Dean Lafrentz

ACKNOWLEDGEMENT

SUBSCRIBED AND SWORN, to before me now this 8th day of September, 2026

Amber Babutzke
Notary Public-SOUTH DAKOTA

My Commission Expires: 3-7-2028

